

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 2111 – SB 2062**

April 2, 2018

**SUMMARY OF ORIGINAL BILL:** Changes, from March 1 to April 1, the date by which the Department of Safety (DOS) is required to submit an annual seizure report to the Speakers and the Chairs of the Judiciary Committees of the General Assembly

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (016529):** Adds language to the original bill requiring a prior conviction for vehicular homicide or aggravated vehicular homicide be considered in determining whether a person is a repeat or multiple offender and the number of prior offenses regardless of whether the violation occurred more than 10 years before the date of the present violation for violations of driving under the influence (DUI).

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Increase State Expenditures – \$117,100 Incarceration\***

Assumptions for the bill as amended:

- The proposed legislation requires any prior conviction for vehicular homicide or aggravated vehicular homicide to be considered in determining whether a person is a repeat or multiple offender and the number of prior offenses regardless of whether the violation occurred more than 10 years before the date of the present violation.
- Pursuant to Tenn. Code Ann §55-10-401(c), DUI convictions in other states can be used to enhance a DUI conviction in Tennessee. Further, prior convictions for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, and adult driving under the influence are treated as prior convictions for DUI.
- The legislation will result in two additional DUI offenses each year for fourth DUI offenses that will be a Class E felony; and one additional DUI offense each year being enhanced to a sixth DUI offense that is a Class C felony that would otherwise be punished as a Class E felony.

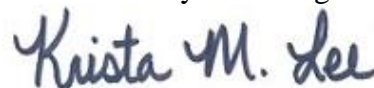
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- The average time served for Class E felony DUI is 1.29 years (471.17 days); and the average time served for a Class C felony is 3.22 years.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect these admissions.
- A recidivism discount applies, but due to the low number of admissions added by this provision of the legislation, the recidivism discount does not impact the incarceration cost for these admissions.
- According to the DOC, the average operating cost per offender per day for FY17-18 is \$71.08.
- The two additional Class E felony admissions will increase state incarceration costs by \$66,982 [(471.17 days x \$71.08) x 2 admissions].
- The admission enhanced from a Class E felony to a Class C felony will result in additional time served of 1.93 years (3.22 years – 1.29 years) or 704.93 days.
- The enhanced Class C felony will increase state incarceration costs by \$50,106 (704.93 days x \$71.08).
- The total increase in state incarceration costs is estimated to be \$117,088 (\$66,982 + \$50,106).
- Any impact on local incarceration expenditures is estimated to be not significant.
- Any impact as a result of the effective date change is estimated to be not significant.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/rbp